IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

ALTERICK PRAYLOW,

Plaintiff,

v.

UNITED STATES et al.,

Defendants.

Case No. 3:21-cv-01817-JR

OPINION AND ORDER

MOSMAN, J.,

On December 21, 2022, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation ("F&R") [ECF 32] recommending that this Court grant Defendants' Motion to Dismiss [ECF 20] and deny Defendants' Motion for Summary Judgment [20] without prejudice. Plaintiff filed objections [ECF 34], to which Defendants responded [ECF 36]. Upon review, I agree with Judge Russo. I GRANT the Motion to Dismiss, and I DENY the Motion for Summary Judgment without prejudice.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make

a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Russo's recommendation, and I ADOPT the F&R [ECF 32]. I GRANT the Motion to Dismiss [ECF 20], and I DENY the Motion for Summary Judgment [ECF 20] without prejudice.

IT IS SO ORDERED.

DATED this _____ day of March, 2023.

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MICHAEL W. MOSMAN
Senior United States District Judge